

REMARKS

Claims 1-21 are pending in the present application. Claims 1-21 have been rejected. Claims 1, 8, 11, 19, 20 and 21 have been amended. Claim 16 has been cancelled. The specification has been amended. The amendments herein presented are made for the purposes of better defining the invention, rather than to overcome the rejections for patentability. No presumption should therefore attach that the claims have been narrowed over those earlier presented, or that subject matter or equivalents thereof to which the Applicants are entitled has been surrendered. No new matter has been introduced by these amendments. Reconsideration and allowance is respectfully requested in view of the amendments and the following remarks.

Objection to Drawings

In view of the objection to the drawings, Applicants are providing copies of the original drawings and replacement sheets for the original drawings.

Reconsideration and withdrawal of the objection is respectfully requested in view of the submission of the replacement sheets.

Specification

The specification has been amended in accordance with the Examiner's suggestions.

Reconsideration and withdrawal of the objection is respectfully requested in view of the amendments to the specification.

The 35 U.S.C. §112, second paragraph, Rejection

Claims 1-21 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

Applicants have canceled Claim 16 and amended Claims 1, 11, 20, and 21. The claims are now in condition for allowance. Reconsideration and withdrawal of the objection is

respectfully requested in view of these amendments.

The 35 U.S.C. §102(e) Rejection

Claims 1-10, 20 and 21 have been rejected under 35 U.S.C. § 102(e), as being anticipated by Silver (U.S. Patent No. 6,442,413). Applicants respectfully disagree with the Examiner's contentions.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

The Silver reference teaches a sensor for implantation in a blood vessel to monitor an analyte in blood. (Abstract) The Silver reference teaches the attaching of the sensor on a stent and embedding the stent into a blood vessel. (Col. 9, lines 39-65) The stent is designed to allow blood flow through the interior of the stent. The semi-permeable membrane covering the sensor makes contact with blood when the stent is in the blood vessel. (Col. 11, lines 33-35) The sensor is equipped with an antenna that can be a thin wire wound around the stent. (Col. 11, lines 3-8)

The Silver reference does not contain all of the elements of the claims. The Silver reference does not teach "a sensing device having a retrieval wire configured to extend from an interior of a body part..." as claimed in Claims 1, 11, and 20. The antenna of the sensor in the Silver reference is merely an antenna for transmitting signals. (Col. 11, lines 3-8) It is not a retrieval wire that extends from the interior of a body part to the exterior of the body for use in retrieving the sensing device from the body.

The Silver reference does not teach or suggest each and every element as claimed and as arranged in the claims. Therefore, independent Claims 1, 11, and 20 are not anticipated by the Silver reference. Since Claims 1, 11, and 20 are not anticipated by the Silver reference,

dependent Claims 2-10, 12-15, 17-19, and 21 are also not anticipated by the Silver reference. Reconsideration and withdrawal of this rejection is respectfully requested.

Further remarks regarding the asserted relationship between Applicant's claims and the Silver reference are deemed not necessary, in view of the foregoing discussion. Applicant's silence as to any of the Examiner's comments is not indicative of acquiescence to the stated grounds of rejection.

Allowable Subject Matter

The Applicants thank the Examiner for the reporting that Claims 11-19 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. §112, second paragraph, set forth in the Office Action. The Examiner has provided the statement for the reasons of allowable subject matter as follows: "no prior art of record teaches or fairly suggests a method for using a sensing device disposed in a body part as set forth in claims 11-19." Applicants have amended the claims to overcome the 35 U.S.C. §112, second paragraph, rejection. Claims 11-19 are in condition for allowance.

References of Interest

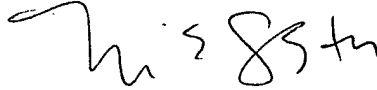
The prior art cited (U.S. Patent Nos. 4,846,191 to Brockway et al., 6,159,156 to Van Bockel et al., and 6,682,490 to Roy et al.; U.S. Patent Applications 2002/0138009 to Brockway et al. and 2003/0136417 to Fonesca et al.), and not relied upon, is believed to comprise general information that does not render the present application anticipated or obvious.

Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated above.

Respectfully submitted,
TOBIN, CARBERRY, O'MALLEY,
RILEY & SELINGER, P.C.



Dated: April 3, 2006

Nicole E. Coppes-Gathy
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Signed:


Sarah K. Ackley

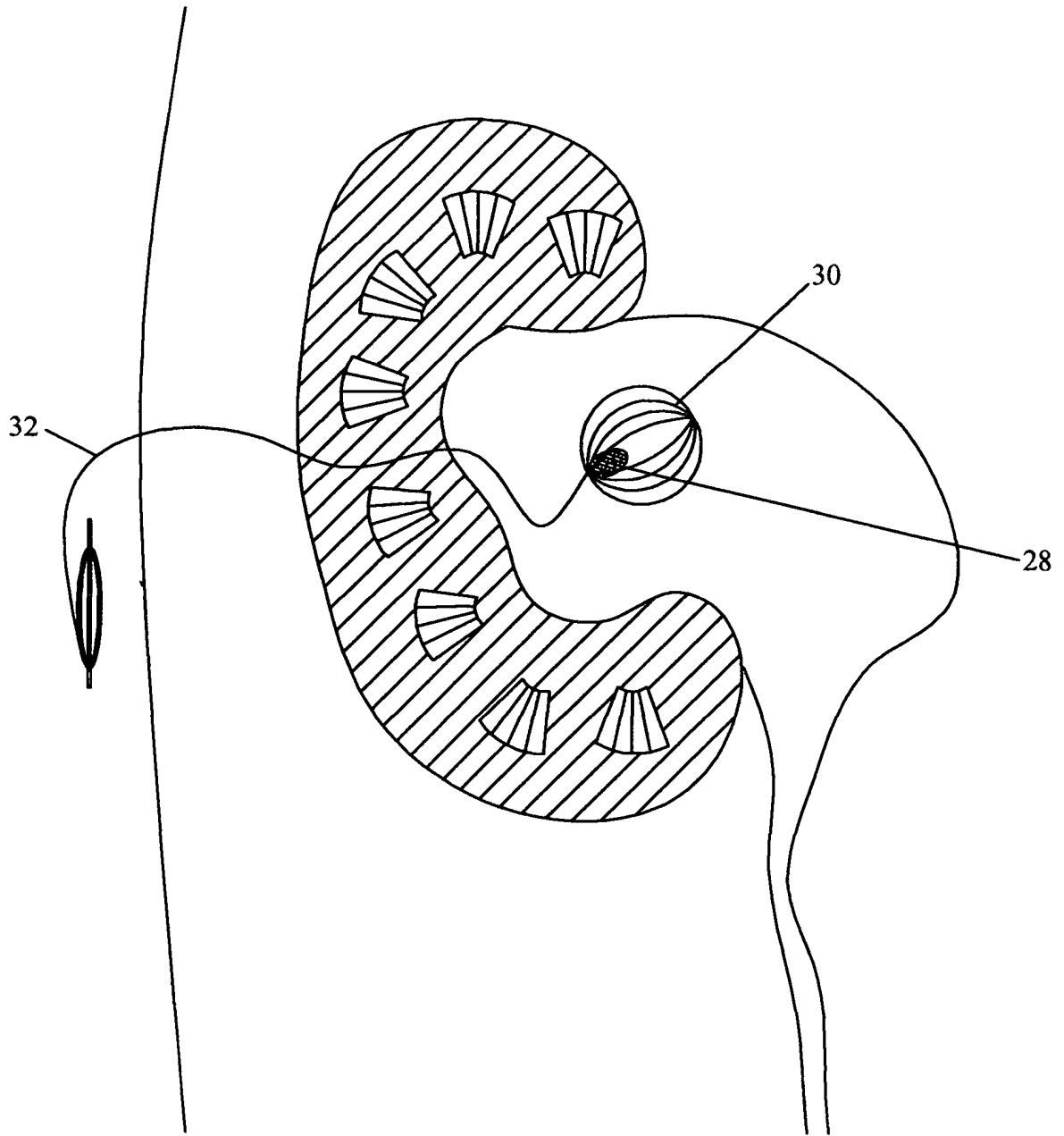


FIG. 1A

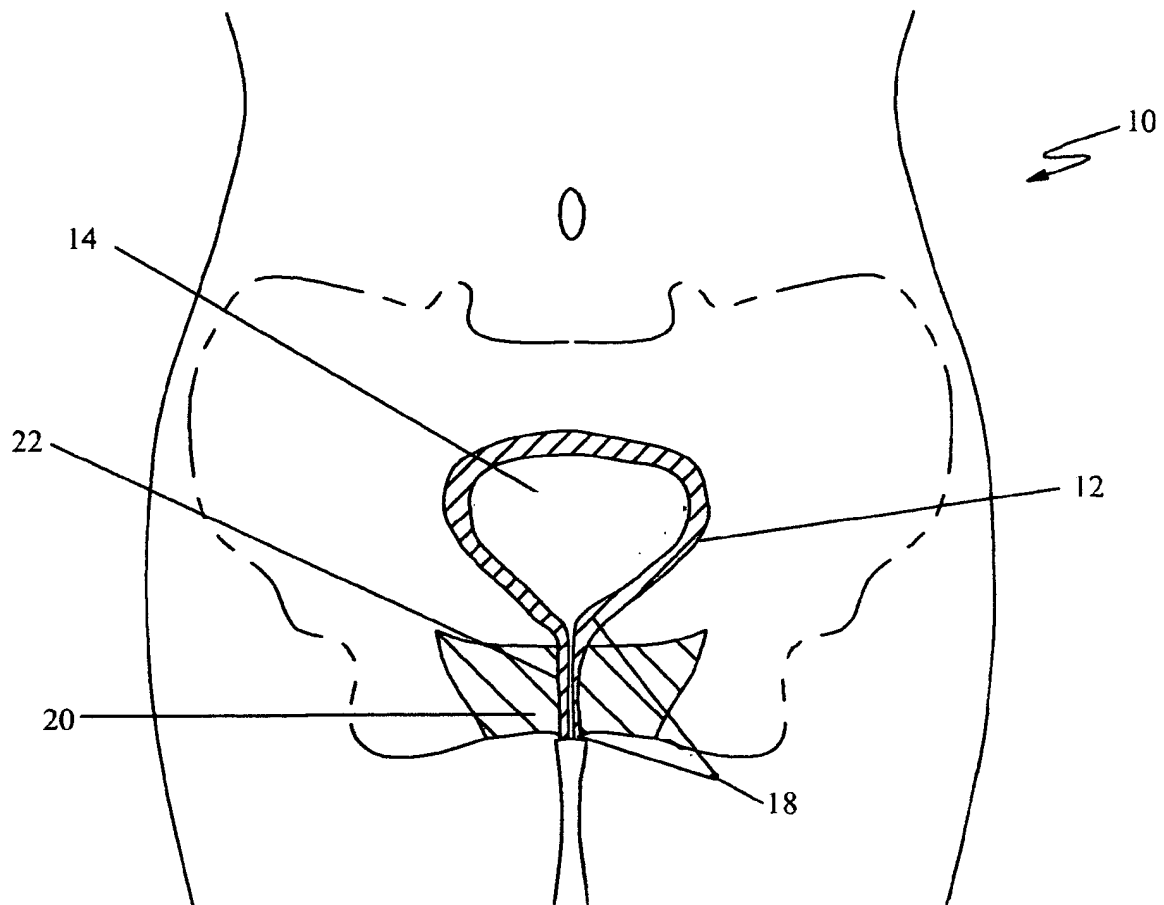


FIG. 1B

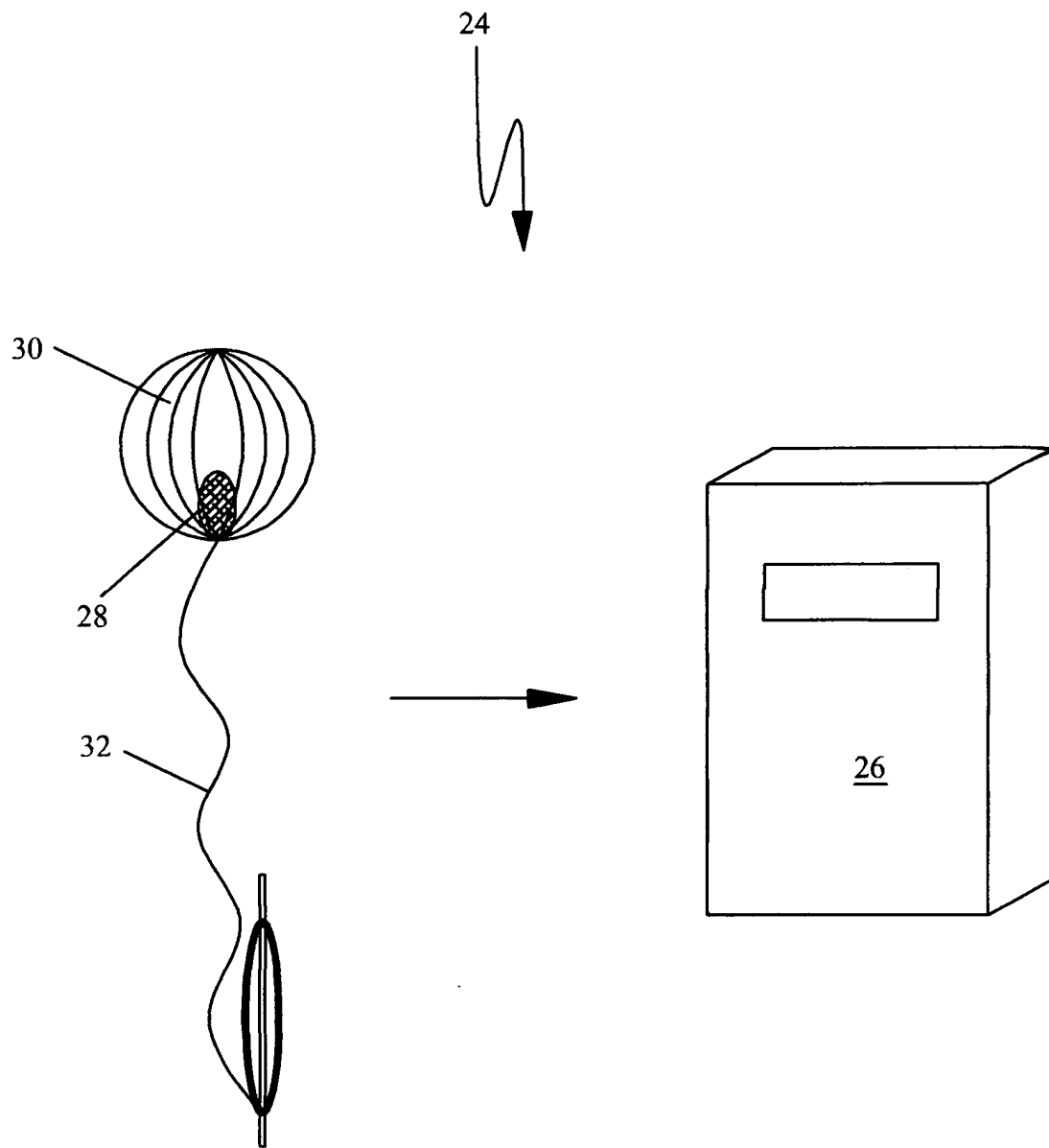


FIG. 2

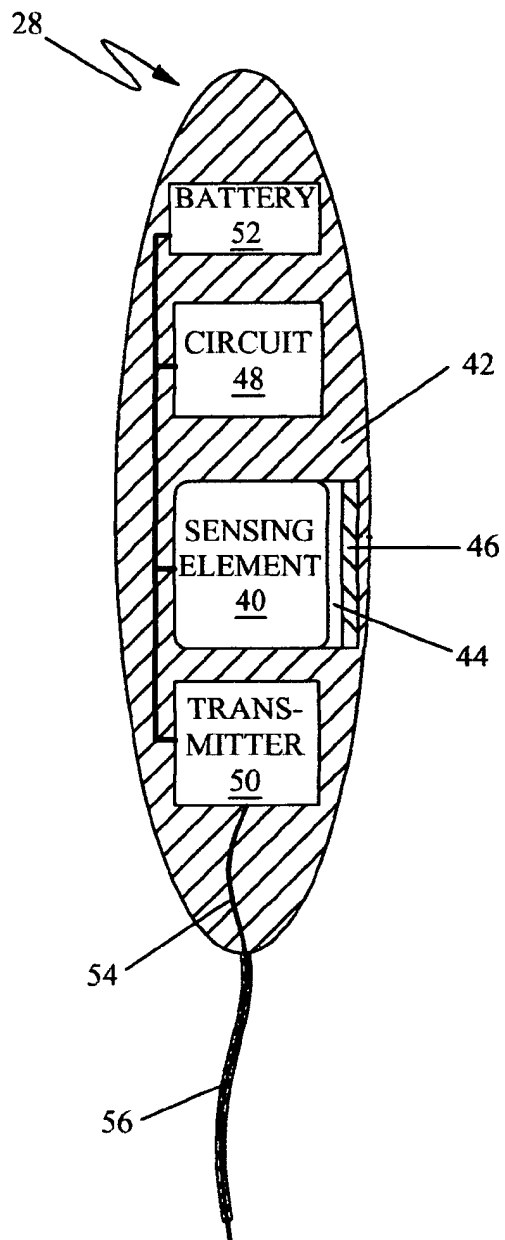


FIG. 3

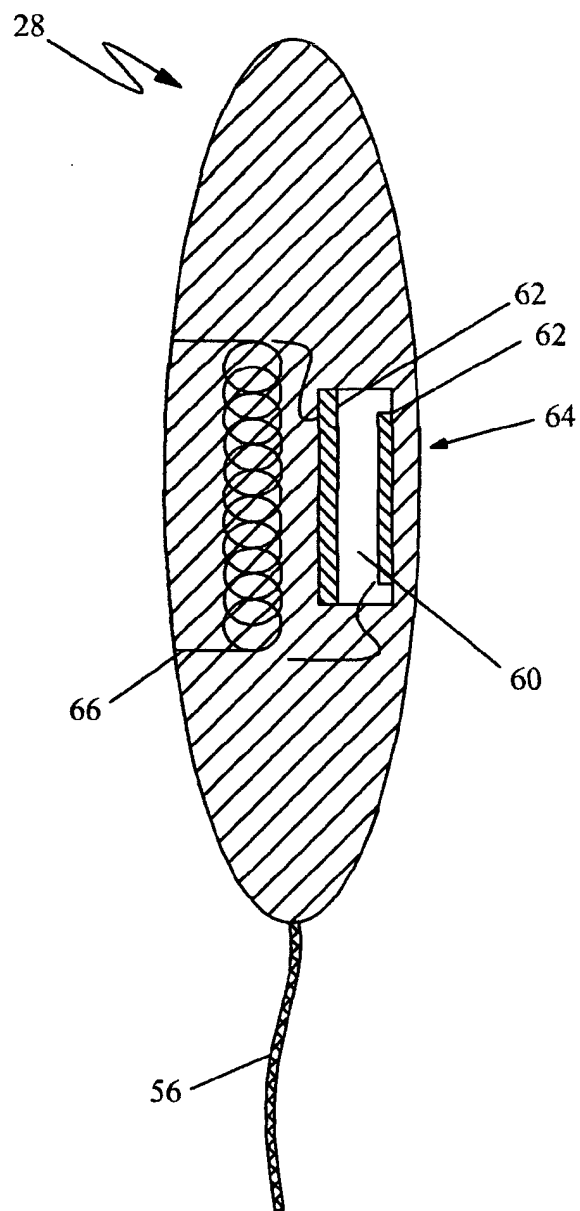


FIG. 4

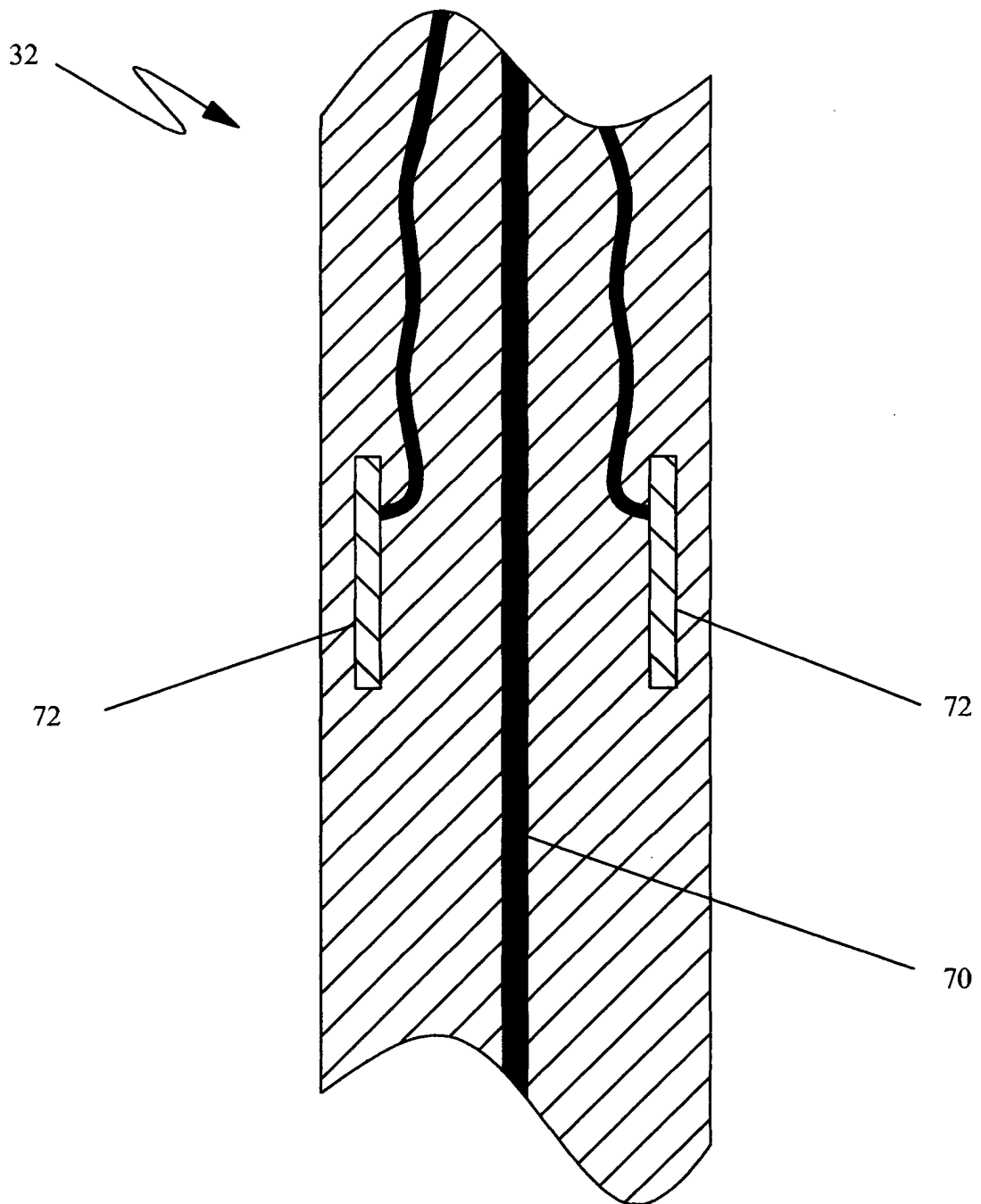


FIG. 5

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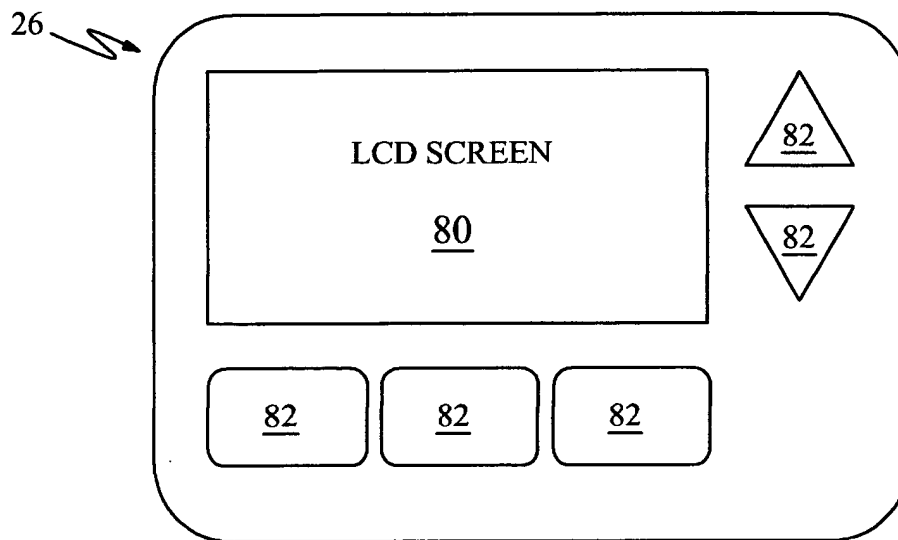


FIG. 6

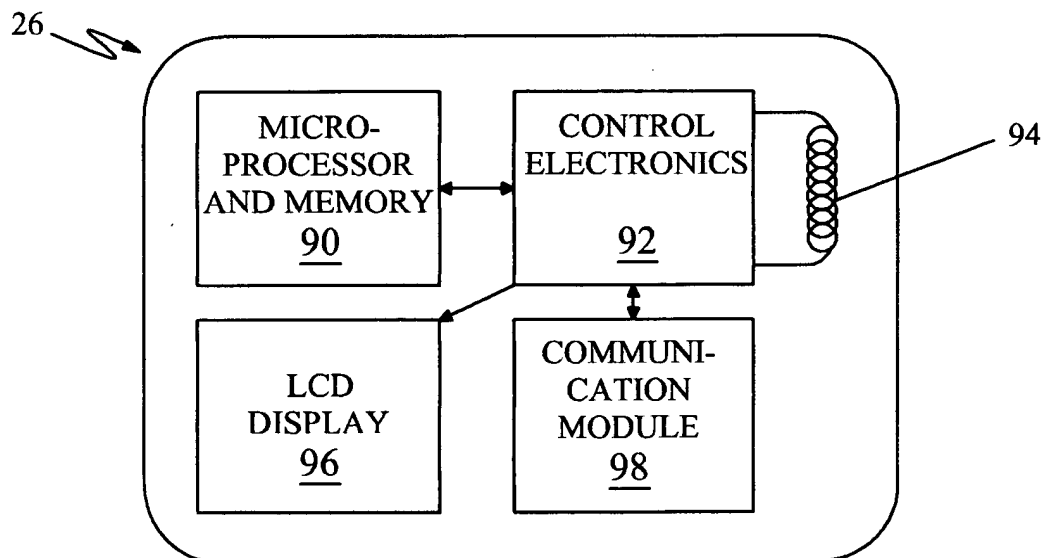


FIG. 7

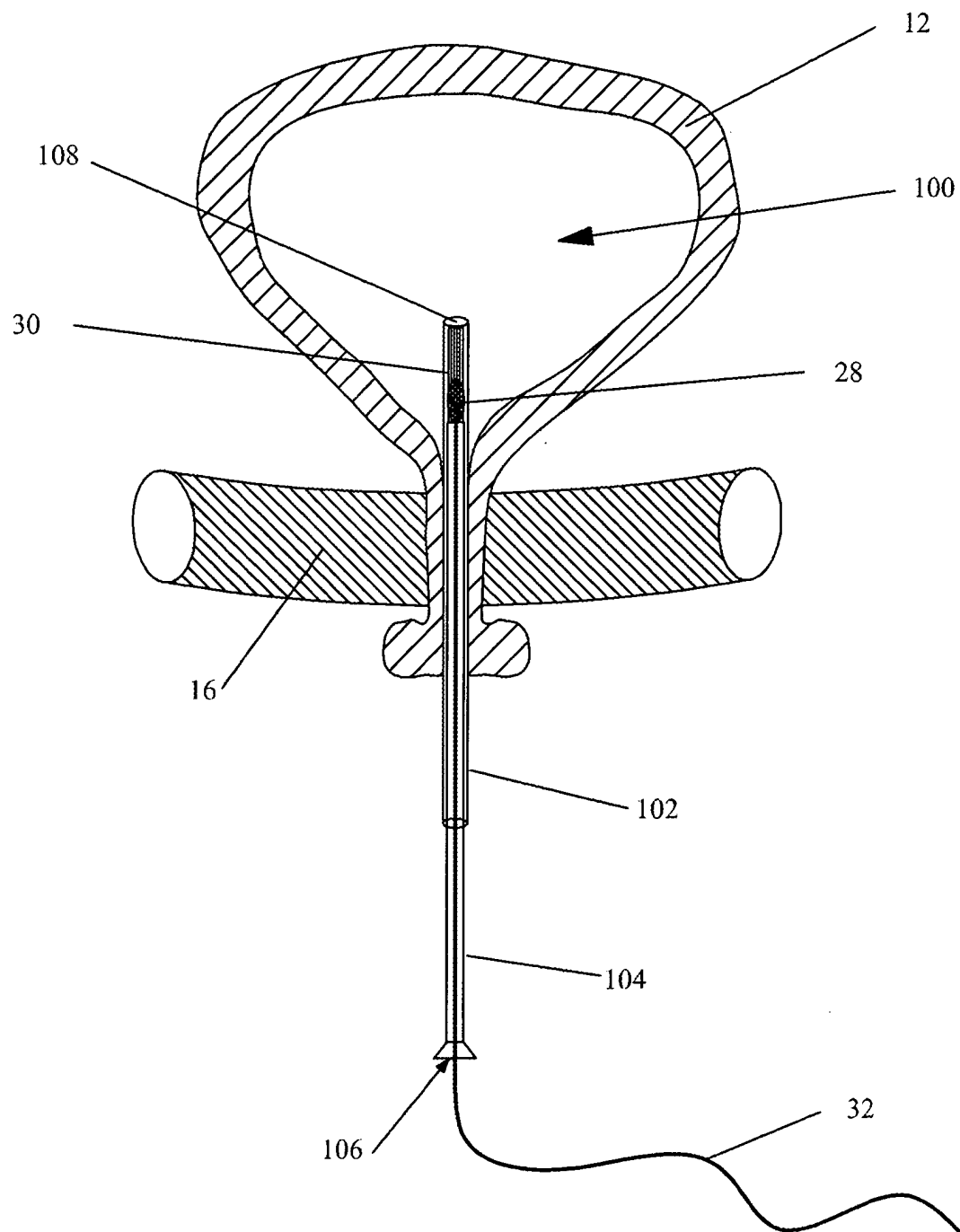


FIG. 8

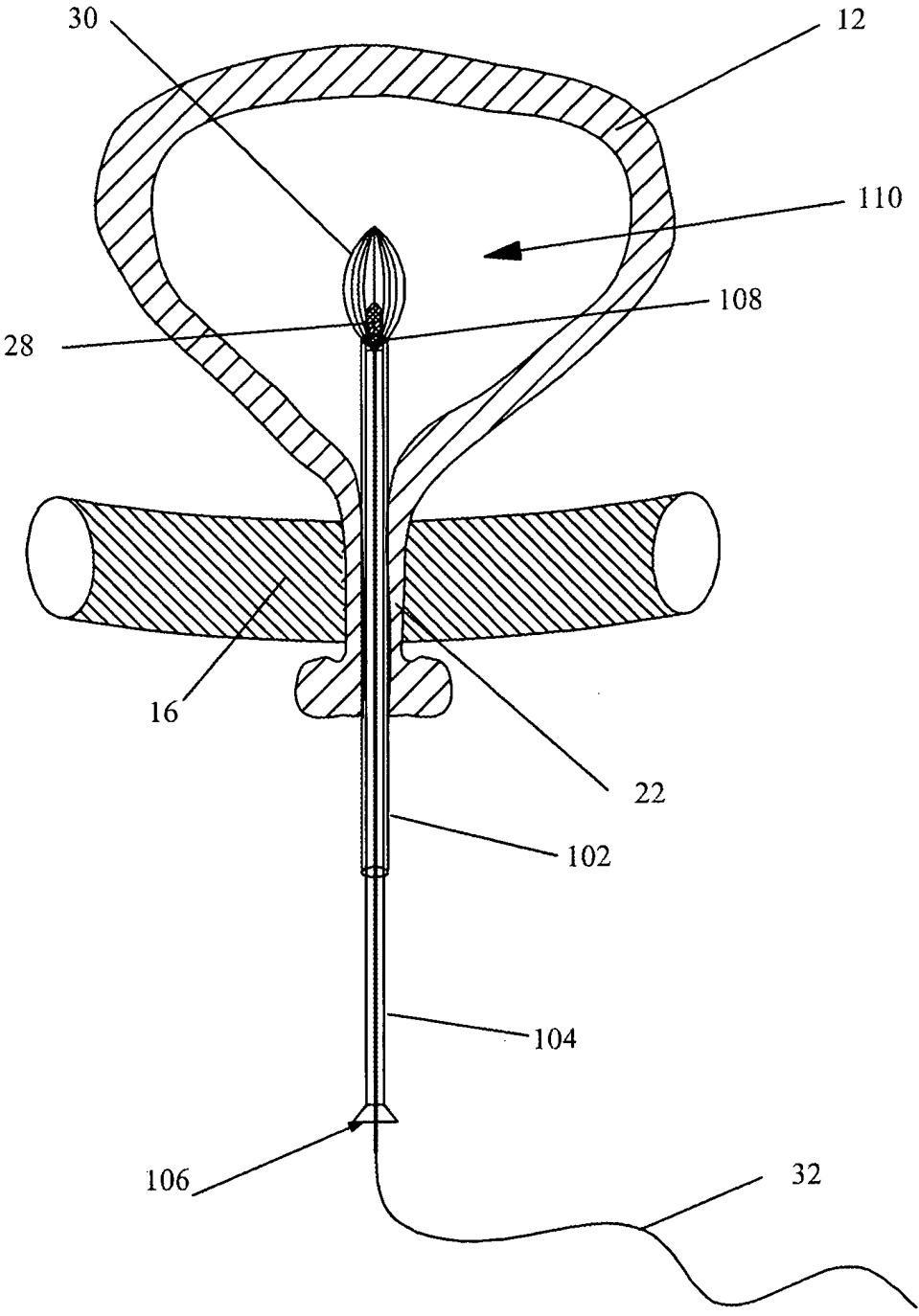


FIG. 9

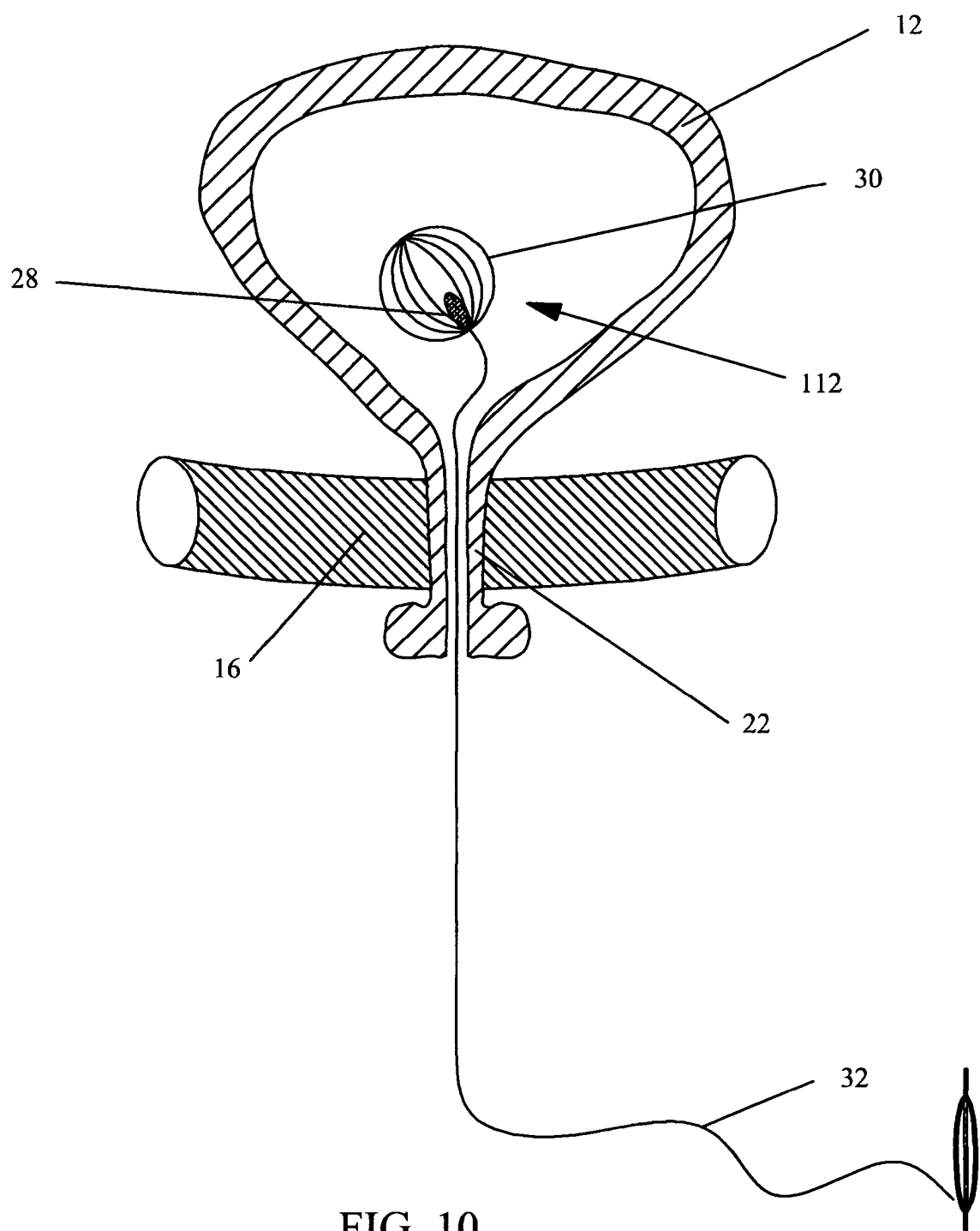


FIG. 10

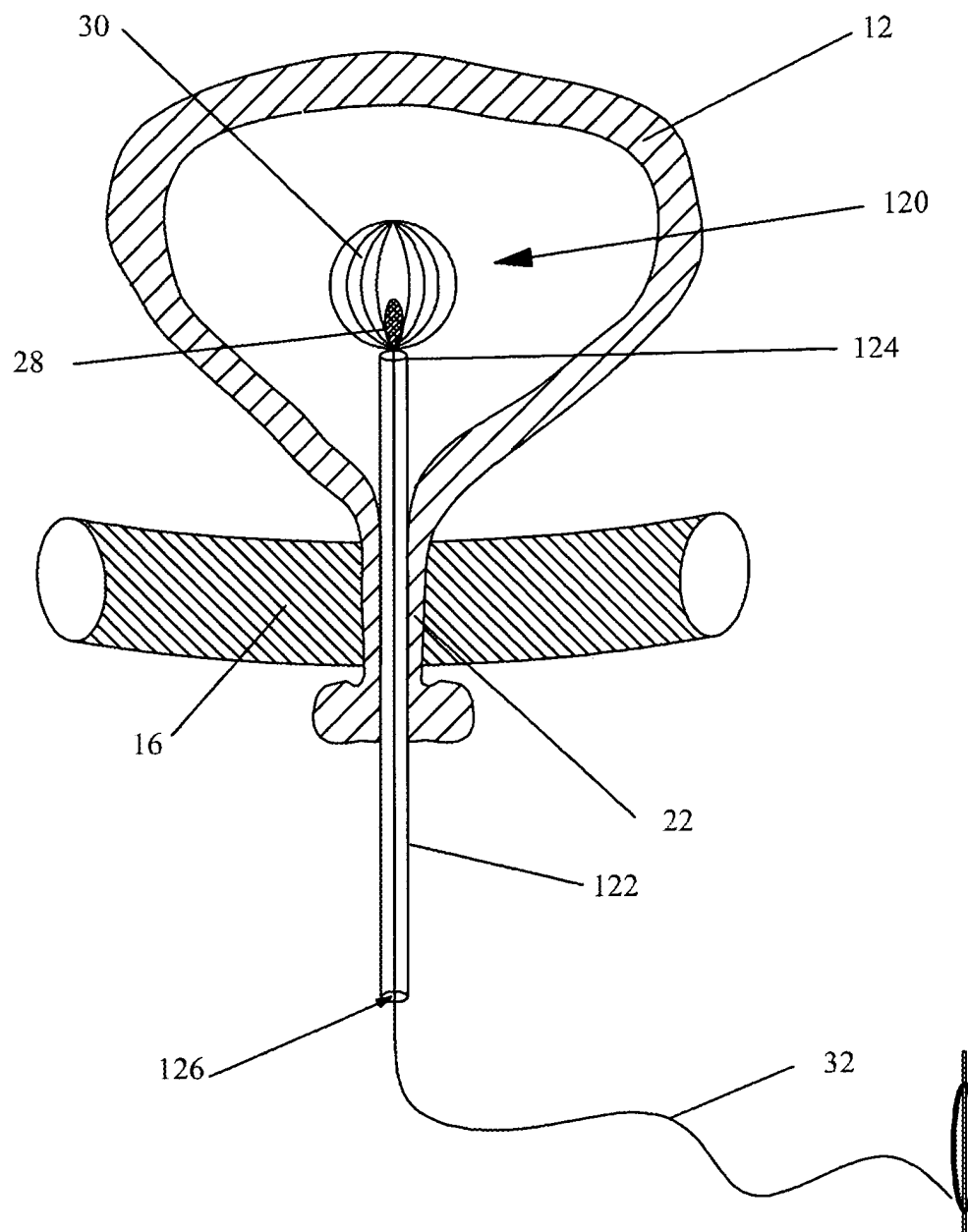


FIG. 11

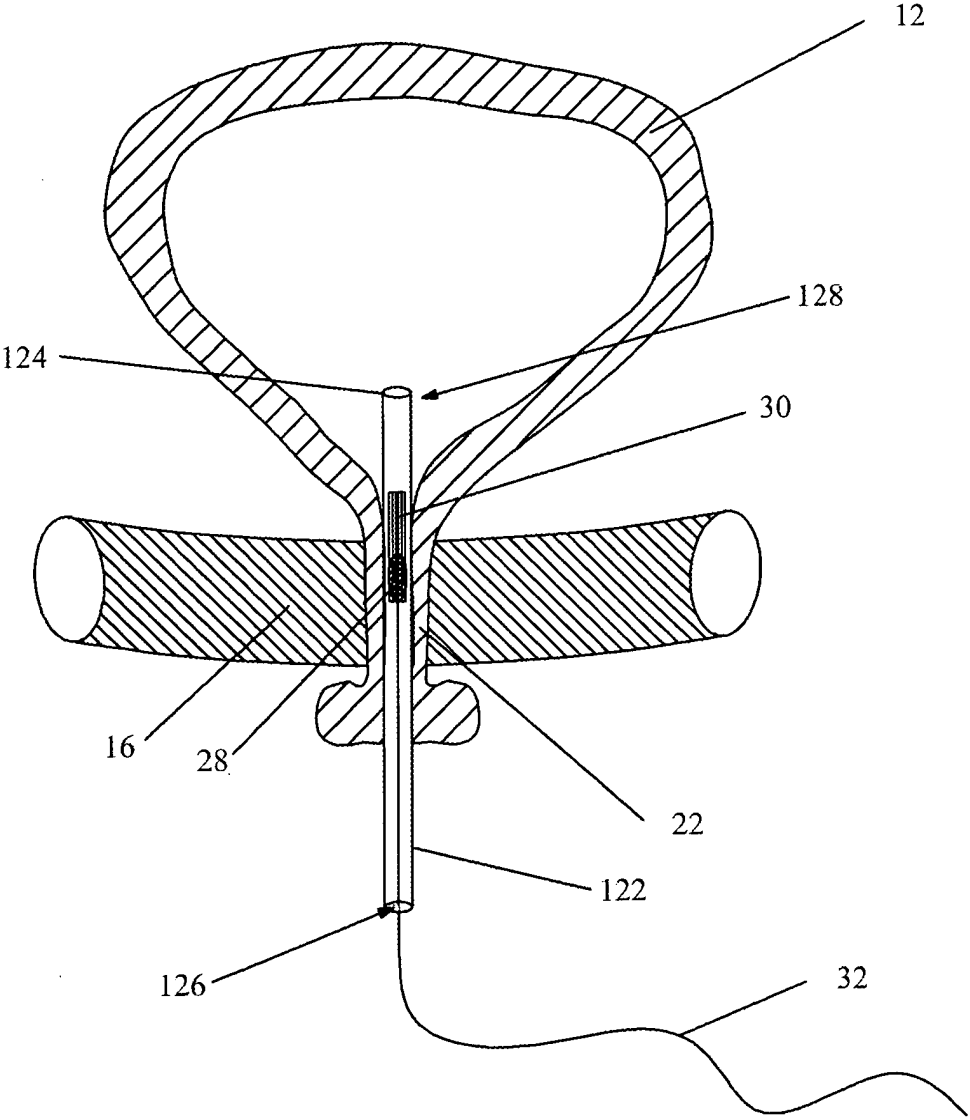


FIG. 12

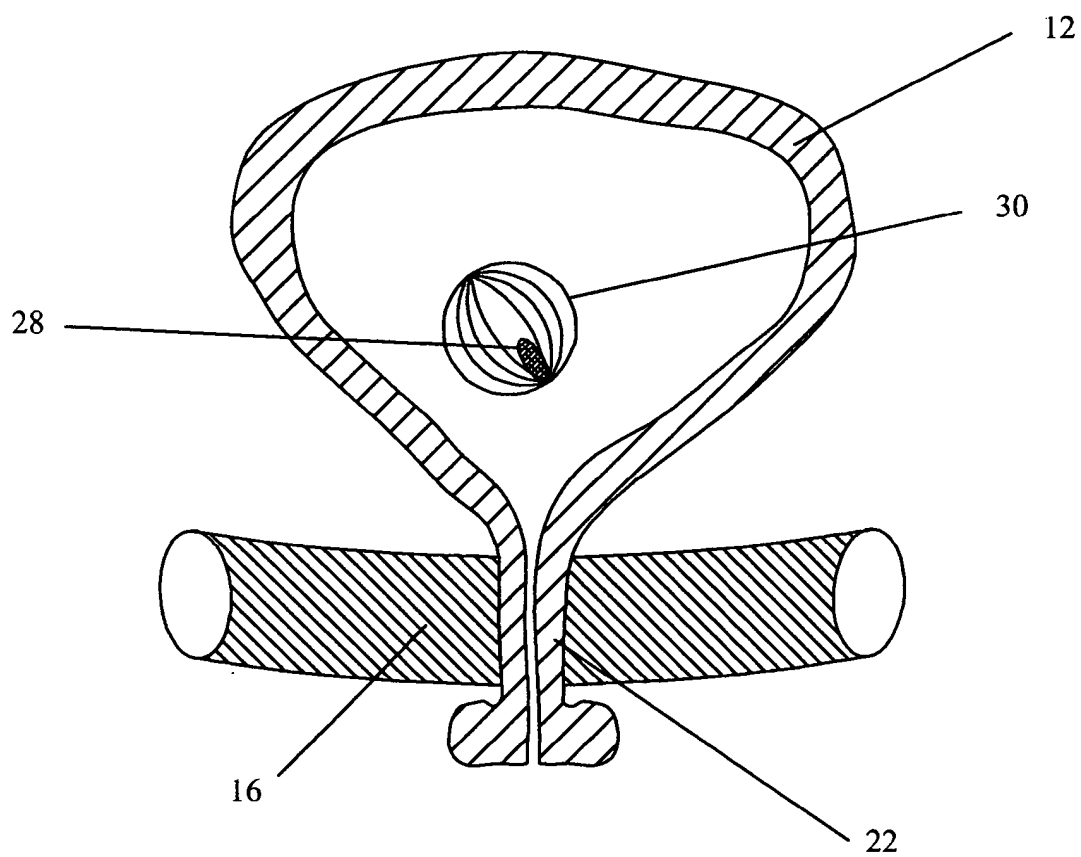


FIG. 13